

# Yankel and the Black Man

- Basil Herring.

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There is no shortage of irony in the fact that the US Department of Justice this week indicted Lemrick Nelson Jr. on charges that he violated the civil rights of Yankel Rosenbaum, alleging that he killed him in cold blood on a riotous street in Crown Heights, Brooklyn. Ironic, in the first place, because this week is almost precisely three years ago to the day since that first pogrom on American soil. Ironic, in the second place, because the Feds of Washington had to step in to undo a blatant miscarriage of justice perpetrated by a court against a Jew in what is the densest concentration of Jews in the world. Ironic, as well, given the simultaneous defeat of President Clinton's Crime Bill in Congress, shepherded in the main by a Jew from Brooklyn named Congressman Charles Schumer, in significant part because the Black Congressional Caucus down in Washington opposed it because the bill included an expansion of the death penalty that would affect the many blacks on death row in this country. And ironic, not least, that it should have happened erev Parshat Shoftim, which in its coda, anticipates almost precisely, the Yankel Rosenbaum story and scenario. Permit me to explain the last first.

Deuteronomy 21 describes the violent death of a Jew, and its consequences. And so it says that if a Jew is found to have been killed between two towns, but it is not known who killed him, then the elders and the judges of the nearest town shall gather in a nearby field, and slaughter a young calf, breaking its neck in the process. Then the elders are to wash their hands over the carcass of the animal and declare "our hands have not spilled this blood, and our eyes have not seen; forgive your people Israel, do not punish them for the innocent blood spilled in the midst of your people Israel, let the blood be atoned for." And then the Torah concludes with the words, "And you shall avenge the innocent blood in your midst, by doing what is right in the eyes of the Lord." There is much that can be said about these verses; and no shortage of ink has been expended in elaborating upon them over the centuries. But I dare say that for us today, they take on a meaning that is both pregnant and particular.

Yankel Rosenbaum, one might say, was twice aggrieved. The first time was when as a peaceful visitor to the shores of this great country, he was killed by a raging mob of blacks for no reason other than that he was an identifiable Jew. The second time, and surely the more egregious, occurred when, what the Torah here calls the judges of the nearest town, but what we might refer to as the jurors of King's County, saw fit to acquit by zestful acclamation the man found with the knife in his pocket that bore Yankel's innocent, but Jewish blood. In so doing, of course, it did not occur to them that by that very acquittal they might come to share in the responsibility and guilt for the dastardly deed. Why would it even occur to them to heed these words of the Torah of the Jews that declares that the judge and jury, the leaders or elders, must perforce share responsibility when the killer of an innocent man is allowed to go scot-free, when blood, Jewish or otherwise, flows freely in the streets because those charged with maintaining law and order, and upholding the very foundations of civilized society, are too preoccupied with their parochial concerns, and political hides. But responsible, they and their leadership, undoubtedly are. Thank

God, therefore, that as a result of Jewish outrage, and political clout, albeit somewhat belated, the blood of a Jew named Yankel may yet be atoned for.

But this in turn raises two other questions, assuming Lemrick Nelson is ultimately found guilty: the one on the matter of the death penalty, and the other on the matter of Jews and Blacks.

Given the level of violent crime in this society, and in light of the position of Governor Cuomo, up for reelection shortly, in opposition to capital punishment, we can well ask whether the man who killed Yankel Rosenbaum should be put to death. I have in the past discussed the death penalty from the pulpit, and you may recall that we found two divergent halakhic traditions as to whether, in the absence of the Sanhedrin, the death penalty can or should be carried out. Some of our authorities from the time of the Talmud and on were literally “dead set” against it; others, however, took a more accommodating, or permissive, stance. I won’t review all the texts and arguments today, but I will say this: there is no doubt that a sound halakhic case can be made for implementation of the death penalty, as the punishment for murder—if not as a deterrent, then surely as a penalty that fits the crime. Indeed earlier in this very parshah, the Torah explicitly directs the Jew to avoid feelings of mercy for a murderer, especially one who runs to a city of refuge, Atlanta or otherwise, and claims extenuating circumstances. Of such a killer the Torah says “you shall not have compassion on him, but you shall put away the blood of the innocent from Israel, that it should go well with you.” (Deut. 19:13) As the Sifri comments: “don’t rationalize and say ‘one is already dead, why should we kill another.’” And Hizkuni adds: “The Torah says ‘it shall go well with you,’ insofar as you will thus limit the number of killers in your midst.” Indeed, in explaining the final phrase of the parshah that we quoted above, “you shall do what is right in the eyes of the Lord,” Rashi says that if in the end the killer is found, he must be put to death, even though atonement will already have been made by the elders, for that is the right thing in the eyes of God. In light of such texts, and given the appalling crime rates that currently prevail in this country, I for one am inclined to endorse the death penalty, given the many safeguards against mistaken verdicts, that the judicial system currently employs. Together with Boswell, I do believe that the prospect of hanging does indeed clarify a man’s mind wonderfully. As such, it is a pity that this week’s Crime Bill went down to defeat.

But then there is the second issue: the Jews and our African American fellow citizens. By now we are long accustomed to hearing the politics of resentment from the Sharptons and Farrakhans of the Black world, those on the fringes who prefer to shift responsibility for the undoubted ills of their masses, either because they are opportunists (as with the former), or bigots (in the case of the latter.) They and their cohorts, like others in history, find it so much easier to blame everyone else, but most especially the Jews, for all that is wrong in their ghettos. What we were not prepared for, however, was the spread of the anti-semitic rot into the more mainstream Black organizations. Initially mainstream blacks were silent in the face of the three “B’s”: blatant black bigotry. But in recent months, the silence metastasied into something far more sinister: a covenant, no less, between the venerable NAACP, the Congressional Black Caucus, and Farrakhan’s Nation of Islam. This political alliance immediately granted an aura of legitimacy to the bigots, even as did Jesse Jackson who has said that on racial injustice he stands together with Louis Farrakhan. Let us make no mistake about it: we are seeing the rehabilitation of black racism in this society, a mainstreaming of a particular kind of hatred that will have lasting effects on the social fabric of the land. And the ones who will suffer most because of it, I dare say, will not be the Jews, but the Blacks themselves. Fortunately there are other black voices that are

heard from time to time. Notable in this regard was the speech a few weeks of the new president of the National Urban League, Hugh Price, in which he urged blacks to avoid blaming others for Black troubles, and he praised the Jewish community as unmatched in its historic contribution to the well-being of Blacks in this country. Good for him; unfortunately, however, such voices in the ghettos are few and far between these days.

The issue then, is not Lemrick Nelson Jr. It is rather that which preceded, and surrounded him, not just in Crown Heights, but in every city and state of the nation. It is the question whether enough good people in the Black community can find the moral strength to confront and speak out on the real roots of its problems, with honesty and courage; but equally, whether enough of our own Jews are smart enough, and honest enough, to learn the real lessons from the tragic death of Yankel Rosenbaum, so as to recognize the dangers to the Jewish community from without and within, and do something constructive about it, be it to organize politically, speak out intellectually, or for that matter in strengthening the Jewish community and the Jewish people in the ways that truly count.

Allow me to conclude with one more thought from our parshah: Tzedek tzedek tirdof “justice, justice shall you pursue.” Reb Simchah Bunim of Psysche, one of the giants of the Hasidic tradition, has two comments on this phrase, as recorded in his name. One is that the repetition of the word tzedek, far from being redundant, is in fact, critical: it teaches that justice is to be pursued, but only by just means, i.e., pursue justice with justice. That is to say, unjust means can never be justified by the ends pursued. The second comment is that the verse commands us to pursue justice because it is a commodity so rare, and so little encountered in this world, that it has to be sought after like a precious and elusive treasure, a reward most often received not in this world, but in the next—the Torah follows it immediately by promising that as a result “you shall live to inherit the land which the Lord your God gives you,” a peculiar phrase which is to be taken as referring to a future life, and a future land promised by God, i.e., the reward of eternal bliss in life after death. Only there is justice truly realized, for all that man struggles to realize it in the here and now.

These two interpretations, I would say, are particularly germane to our moment. The first is for the Black community, which is to say to them: God knows you have suffered grievous injustices in the past, but the way to redress them is not by unjust means, be they through aggravated violence, or for that matter the unjust racial quotas, which grievously hurt and discriminate against innocent non-Blacks. The second lesson is for us as Jews: true it is that for the Yankels throughout history there has all too often been precious little fairness or equity; too many Jews have suffered and sometimes died for being a Jew charged by God to bear an onerous spiritual mantle. Yet we must not despair or desist in the justice of our cause, and in its ultimate triumph, whereby the Yankel, or Yaakov, will be transformed into Yisrael, from weakness to strength, from exile to redemption, from despised victim to respected and vindicated witness to the truth, as a result to inherit both this world and the next, in ultimate embrace of God’s blessings, for us, and for all mankind, of every race and color, faithful to God and His Torah, forever.